

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

KENT JONES and MARK LEE,

Plaintiffs,

vs.

THE UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
INTERIOR, BUREAU OF INDIAN
AFFAIRS,

Defendants.

Case No. CIV-2019- 19-KEW

COMPLAINT

COME NOW Plaintiffs, Kent Jones and Mark Lee and for their Causes of Action against Defendants, The United States of America, United States Department of Interior, and Bureau of Indian Affairs, allege and state as follows:

First Cause of Action

1. This lawsuit is a civil lawsuit and the amount in controversy exceeds the statutory minimum prescribed in 28 USCA § 1332(a) of \$75,000.00. Plaintiffs, Kent Jones and Mark Lee are domiciled in and citizens and residents of the State of Oklahoma.
2. The accident involved herein occurred in Seminole County, Oklahoma, within the Eastern District of Oklahoma. This lawsuit is brought in the Eastern District of Oklahoma based upon complete diversity of citizenship between Plaintiffs and Defendants.
3. On the 1st day of November 2016, Plaintiff Kent Jones was driving his 2001 Dodge 2500 pickup on US Highway 377. Plaintiff slowed to turn into a private

drive and turned his turn signal on when he was struck from behind by Roger Dean Butler. Roger Butler was driving in the course and scope of his employment with the Bureau of Indian Affairs.

4. At all times pertinent to this lawsuit, Roger Butler was an employee and agent of the Defendant Bureau of Indian Affairs, and Roger Butler was within the scope of his employment with the Bureau of Indian Affairs, 600 N Milt Phillips Avenue, Seminole, OK 74868. Defendants are vicariously liable for the acts of Roger Butler.
5. Defendant's conduct was want of slight care and diligence and/or gross negligence and/or with reckless disregard of another's rights
6. Pursuant to 28 U.S.C. § 2675, Plaintiffs presented a standard Form 95 to the Indian Affairs Bureau, 600 N. Milt Phillips Avenue, Seminole, OK 74868 on or about April 3, 2018.
7. Six (6) months have passed since the Federal Tort Notice was provided to the Bureau of Indian Affairs.
8. Out of an abundance of caution, Plaintiffs sent the Federal Tort Notice by way of Standard Form 95 to the Department of the Interior on or about October 11, 2018 and again to the Bureau of Indian Affairs in Seminole, Oklahoma.
9. Regulation requires the receiving agency must transfer the claim forthwith to the appropriate agency and notify the claimant of the transfer 28 C.F.R. § 14.2(b)(1) if the notice provided in Paragraph 6 was to the wrong agency.
10. Plaintiffs have presented a Federal Tort Claim and Defendants have failed to respond.

11. Defendants' negligence consists of the vicarious liability of their driver, Roger Butler.

12. Defendants were negligent in the following ways:

- A. Failure to keep a careful lookout;
- B. Failure to drive the proper speed;
- C. Following too closely;
- D. Negligence per se.

COUNT II

13. As a direct and proximate result of Defendant's negligence, and/or violation of the laws of the State of Oklahoma, Plaintiff, Kent Jones has suffered personal bodily injuries which will include past and future medical expenses, past and future physical and mental pain and suffering and inability to lead a normal life, past and future loss of enjoyment of life, past, present and future loss of earnings and earning capacity. Plaintiff, Kent Jones suffered great injuries including, but not limited to, his neck, left shoulder and back which will require surgery. The medical bills to date total \$26,637.96.

COUNT III

14. As a direct and proximate result of Defendant's negligence, and/or violation of the laws of the State of Oklahoma, Plaintiff, Mark Lee has suffered personal bodily injuries which will include past and future medical expenses, past and future physical and mental pain and suffering and inability to lead a normal life, past and future loss of enjoyment of life, past, present and future loss of earnings

and earning capacity. Plaintiff, Mark Lee suffered great injuries including, but not limited to, his neck, head and back which will require surgery. Medical bills to date total \$17,039.94.

COUNT IV

15. Plaintiff, Kent Jones' vehicle involved in this accident has not been repaired and is a total loss.

16. Plaintiff, Kent Jones' vehicle is a 2001 Dodge Ram 2500 and is totally destroyed. The value of the property damage is \$25,000.00 and there is a loss of use from the day of the accident.

WHEREFORE, Plaintiffs, Kent Jones and Mark Lee, pray judgment against the Defendants, The United States of America, United States Department of Interior, and Bureau of Indian Affairs for actual damages in an amount in excess of \$75,000.00 for his personal injuries, together with attorney fees, costs, interest as allowed by law and other relief as the Court may see fit; and \$25,000.00 for the property damage to the vehicle, plus loss of use.

Respectfully submitted,

LITTLE, OLIVER & GALLAGHER



Scott Gallagher, OBA NO. 16356
One West Main
Ardmore, OK 73401
(580) 224-0900 Telephone
(580) 224-0903 Facsimile
Attorney for Plaintiffs

ATTORNEY'S LIEN CLAIMED